

**REMARKS**

Claims 1-4 and 6-7 are all the claims pending in the application. Previously, claim 5 had been canceled without prejudice or disclaimer. Reconsideration and allowance of all the claims are respectfully requested in view of the following remarks.

**Double Patenting**

The Examiner provisionally rejected claims 1-4 and 6-7 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5, 7, 10, 11, 13-16, 18-24, 27, 33, 34, 36-38, and 41 of copending Application No. 10/535,936 in view of US Patent 5,877,433 to Matsuzaki et al. In order to obviate this provisional rejection, Applicants submit herewith a terminal disclaimer.

As noted in *Quad Environmental Technologies*, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting and raises neither presumption nor estoppel on the merits of the rejection. It is improper to convert this simple expedient of “obviation” into an admission or acquiescence or estoppel on the merits.<sup>1</sup> See also, MPEP §804.02.

**Allowable Subject Matter**

Applicants thank the Examiner for indicating that claims 1, 3, and 4, would be allowable pending the filing of a terminal disclaimer, and that claims 2, 6, and 7, are allowed. In light of the above-noted terminal disclaimer, claims 1-4, 6, and 7, should now be in condition for allowance.

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

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<sup>1</sup> *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ.2d 1392, 1394, 1395 (Fed. Cir. 1991).

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/ Jeffrey A. Schmidt /

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

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CUSTOMER NUMBER

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Jeffrey A. Schmidt  
Registration No. 41,574

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